

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hirofumi HONDA

Serial No.: 09/262,595

Atty. Docket No.: 107156-09007

Filed: March 5, 1999

For: METHOD FOR INTERPOLATING A VIDEO SIGNAL

REQUEST FOR RECONSIDERATION OF
RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

Mail Stop - PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

August 15, 2008

Sir:

In response to the Decision on Petition to Revive Unintentional Abandonment under 37 C.F.R. 1.137(b) dated August 4, 2008, Applicant respectfully requests that the Examiner reconsider his decision dismissing the Petition to Revive based upon unintentional abandonment in view of the following remarks.

It should be noted that contrary to the statement in the last full paragraph on page 1 of the Decision, the undersigned did in fact make the statement that the entire delay was unintentional in the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b) filed on July 12, 2007.

In case it is the Office's position that this statement must be made in every single paper filed, the undersigned hereby again states that the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition was unintentional.

The facts to support petitioner's statement that the abandonment was unintentional were outlined and discussed in the Renewed Petition filed January 15, 2008. In response to the specific concerns raised in the Decision dated August 4, 2008, to the best of the undersigned's knowledge and belief, Examiners often did not act on a case within 5 to 6 months, especially during the period of 2001 - 2003. Attached as

Exhibit A is a copy of Notice in the Official Gazette of November 20, 2001, in which for Group 2610, the first actions were almost four (4) years from the filing date of an application. While it is recognized that second or subsequent actions are issued with less delay, the undersigned had no reason to believe that the issuance of a second or subsequent Office Action would occur within 5 to 6 months after the filing of the Response of November 13, 2001. Please note that the Commissioner issued several notices regarding the backlog in the Patent and Trademark Office during this time period. Additionally, it should be noted that the statement in MPEP 203.08 that "(h)owever, in the event that a six month period has elapsed, and no response from the Office is received, applicant should inquire as to the status of the application to avoid potential abandonment," was only added to the MPEP in May 2004 (See Exhibit B). Prior to that, during the period in question in this proceeding, it was not unreasonable to wait 12 to 18 months between Office Actions and/or filing of a status request.

In accordance with 37 C.F.R. 1.2, the undersigned conducted all communications with the Patent and Trademark Office in writing. After three Requests for Status remained unanswered (January 16, 2003; May 17, 2004; and November 18, 2004), the undersigned contacted on or about April 15, 2005, the Examiner who had issued the first Office Action in the subject application to determine the status of the subject application. The reason it is believed that the undersigned contacted the Examiner directly, was to attempt to find out why the status inquiries had not been answered. While there is no documentary evidence concerning this in the file of the undersigned, it is believed that the matters discussed included the status of the application, and after being told that it was abandoned, the reason for the abandonment, namely, the failure to pay the Issue Fee in response to the Notice of Allowance dated September 3, 2001. As to why such a telephone inquiry was not attempted earlier, please see above with respect to the filing of Requests for Status.

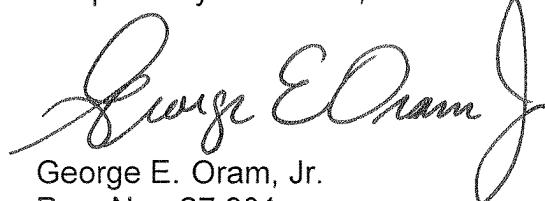
It should be noted that following the revision of MPEP 203.08, the follow-up status request of November 18, 2004, was six (6) months from the prior one and that the call to the Examiner and subsequent Petition to Withdraw the Holding of Abandonment filed April 25, 2005, was less than six (6) months from the prior status

request. It also should be noted, that the Office never replied in any manner to any of the Requests for Status that were filed.

Based upon the facts set forth above, the undersigned submits that there were good-faith attempts made in advising the Patent and Trademark Office of the undersigned's new address and obtaining the status of the application, however the unresponsiveness on the part of the Patent and Trademark Office contributed to the delay in filing the Petition to Revive based upon unintentional abandonment. Further, it is contended that the appropriate diligence was exercised in view of the requirements of MPEP in effect at the time of those efforts.

In the event that any fees are due with respect to this paper, please charge our Deposit Account No. 01-2300, referencing Atty. Docket No. 107156-09007.

Respectfully submitted,



George E. Oram, Jr.
Reg. No. 27,931

Customer No.: 004372
Arent Fox LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D. C. 20036-5339
Tel (202) 857-6000
Fax (202) 638-4810

GEO:mmg

Encls:

Exhibit A Notice in the Official Gazette of November 20, 2001

Exhibit B Page 200-97, MPEP, May 2004, Rev. 2

United States Patent and Trademark Office OG Notices: 20 November 2001**PATENT TECHNOLOGY CENTERS**

NICHOLAS P. GODICI, Acting Under Secretary of Commerce for
 Intellectual Property and Acting Director of the
 United States Patent and Trademark Office

NICHOLAS P. GODICI, Commissioner for Patents

ESTHER M. KEPPLINGER, Deputy Commissioner for Patent Operations

STEPHEN G. KUNIN, Deputy Commissioner for Patent Examination Policy

EDWARD R. KAZENSKE, Deputy Commissioner for Patent Resources and Planning

TECHNOLOGY CENTERS	DIRECTORS	Telephone & FAX		New Case Date*
		Numbers	Area Code 703	
1600 BIOTECHNOLOGY, ORGANIC				
1610 Organic chemistry, John J. Doll		308-1123 FAX 308-2742		08/11/00
bio-affecting and body treating composition				
1620 Carbohydrates, Bruce Kisliuk		308-2035 FAX 308-2742		02/10/00
Nonhetrocyclic Chemistry and Uses				
1630 Recombinant molecular John J. Doll		308-1123 FAX 308-2742		08/03/00
and microbiology, multicellular organisms				
1640 Immunology and Plants Bruce Kisliuk		308-2035 FAX 308-2742		05/04/00
Non-recombinant molecular and micro- biology, non-immuno proteins and peptides	Bruce Kisliuk	308-2035 FAX 308-2742		08/04/00
1660 Asexually Reproduced John J. Doll		308-1123 FAX 308-2742		10/30/00
Plants				
1700 CHEMICAL, MATERIALS ENGINEERING				
1710 Synthetic resins Jacqueline M. Stone		308-1495 FAX 305-3599		01/12/00
Fluid separation and Richard V. Fisher		308-1193 FAX 305-3599		08/07/00
agitation, metal foundry, welding, plastic molding apparatus, fuels and related compositions				
1730 Glass and paper making, Richard V. Fisher		308-1193 FAX 305-3599		01/18/00
tobacco, non-metallic molding, adhesive bonding, tires and coating apparatus				
1740 Metallurgy, Richard V. Fisher		308-1193 FAX 305-3599		08/24/99
electrochemistry, cleaning, disinfecting, sterilizing, analytical chemistry and wave energy				
1750 Chemical products and Richard V. Fisher		308-1193 FAX 305-3599		04/10/00
processes, solar cells and sputtering apparatuses				
1760 Food technology, Jacqueline M. Stone		308-1495 FAX 305-3599		04/20/00
petroleum processing, coating and etching				

EXHIBIT A

1770	Stock materials and miscellaneous articles	Jacqueline M. Stone	308-1495 FAX 305-3599	11/17/99
2100	COMPUTER ARCHITECTURE, SOFTWARE, ELECTRONIC COMMERCE			
2120	Miscellaneous computer applications	Margaret A. Focarino	306-5484 FAX 305-3719	01/06/99
2130	Cryptography, security	John Love	306-5484 FAX 305-3719	02/02/99
2150	Computer networks	Allen MacDonald	305-9700 FAX 308-5355	09/16/98
2160	Electronic commerce	John Love	306-5484 FAX 305-3719	04/01/99
2170	Graphical user interface, data bases	Margaret A. Focarino	306-5484 FAX 305-3719	04/16/99
2180	Computer architecture	Allen MacDonald	305-9700 FAX 308-5355	04/06/99
2600	COMMUNICATIONS			
2610	Television	Joseph J. Rolla	305-9700 FAX 308-5401	12/11/97
2620	Image analysis, fax	Joseph J. Rolla	305-9700 FAX 308-5401	09/18/98
2630	Digital, optical, and general communications	Jin F. Ng	305-4800 FAX 308-5401	10/06/98
2640	Audio, speech processing and wired telephone	James L. Dwyer	305-4800 FAX 308-5401	05/15/98
2650	Dynamic information storage and retrieval	James L. Dwyer	305-4800 FAX 308-5401	06/30/99
2660	Multiplex communication	Jin F. Ng	305-4800 FAX 308-5401	06/30/00
2670	Computer graphics and display systems	Jin F. Ng	305-4800 FAX 308-5401	05/10/99
2680	Radio Telecommunications	James L. Dwyer	305-4800 FAX 308-5401	04/16/99
2800	SEMICONDUCTORS, ELECTRICAL AND OPTICAL SYSTEMS AND COMPONENTS			
2810	Static memory and digital logic	Rolf G. Hille	306-3431 FAX 308-7725	12/06/99
2820	Semiconductors and electrical circuits	Rolf G. Hille	306-3431 FAX 308-7725	05/31/00
2830	Power generation and distribution, music, electrical components and control circuits	Stewart J. Levy	308-0658 FAX 305-1341	11/29/99
2850/ 2860	Photocopying, recorders, measuring and testing, printing	Howard Goldberg	306-3431 FAX 308-7725	11/08/99
2870	Liquid crystals, optical elements, optical systems, fiber optics, lasers, electric lamps, registers, optics measuring and radiant energy	Janice A. Falcone	308-0530 FAX 308-7725	07/23/99
3600	TRANSPORTATION, CONSTRUCTION, AGRICULTURE, LICENSING AND REVIEW			
3610	Surface transportation	Gerald Goldberg	308-1134 FAX 305-7687	10/11/00

3620	Closures, connections, hardware, sign exhibiting and furniture	Al Lawrence Smith	308-1020 FAX 305-7687	06/07/00
3630	Static structure, supports and furniture	Al Lawrence Smith	308-1020 FAX 305-7687	06/16/00
3640	Aeronautics, agriculture, plant and animal husbandry, weaponry, nuclear systems, license and review	Gerald Goldberg	306-4180 FAX 305-7687	08/11/00
3650	Material handling	Gerald Goldberg	308-1134 FAX 305-7687	08/09/00
3660	Computerized vehicle controls and navigation, radio wave and acoustic wave communication	Gerald Goldberg	306-4180 FAX 305-7687	09/07/00
3670	Wells, earth boring/ moving/working, excavating, mining harvesters, bridges and roads, petroleum	Al Lawrence Smith	306-4180 FAX 305-7687	08/23/00
3680	Machine elements and power transmissions	Al Lawrence Smith	308-1020 FAX 305-7687	08/14/00
3700 / 2900	MECHANICAL ENGINEERING, MANUFACTURING AND PRODUCTS, DESIGNS			
3710	Amusement and education devices	Ethel Rollins-Cross	308-1078 FAX 305-3579	01/07/00
3720	Packages and containers, manufacturing devices and processes, machine tools and hand tools	Ethel Rollins-Cross	308-1078 FAX 305-3579	12/03/99
3730	Medical instruments, diagnostic equipment, treatment devices, surgery and surgical supplies	John E. Kittle	308-0873 FAX 305-3591	08/21/00
3740	Thermal and combustion technology, motive and fluid power systems	Richard A. Bertsch	308-0975 FAX 308-4741	07/20/00
3750	Fluid handling and dispensing, textile manufacturing and apparel	Richard A. Bertsch	308-0975 FAX 308-4741	04/04/01
3760	Body treatment, kinestherapy, and exercising	John E. Kittle	308-0873 FAX 305-3591	09/20/00
2900	Designs	John E. Kittle	308-0873 FAX 305-3590	11/19/99

* A communication from the examiner should have been received in most applications filed prior to this date.

dockets of each art unit and TC with respect to actions on new applications. Accordingly, the dates of the "oldest new applications" appearing in the *Official Gazette* are fairly reliable guides as to the expected time frames of when the examiners reach the applications or action.

Therefore, it should be rarely necessary to query the status of a new application.

>

II. < AMENDED APPLICATIONS

Amended applications are expected to be taken up by the examiner and an action completed within two months of the date the examiner receives the application. Accordingly, a status inquiry is not in order after reply by the attorney until 5 or 6 months have elapsed with no response from the Office.> However, in the event that a six month period has elapsed, and no response from the Office is received, applicant should inquire as to the status of the application to avoid potential abandonment. Applicants are encouraged to use PAIR to make status inquiries. See subsection III below.< A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered *prima facie* proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive. Proof of receipt of a timely reply to a final action will obviate the need for a petition to revive only if the reply was in compliance with 37 CFR 1.113.

>

III. < IN GENERAL

>Applicants are encouraged, where appropriate, to check Patent Application Information Retrieval (PAIR) (<http://pair.uspto.gov>) which provides applicants direct secure access to their own patent application status information, as well as to general patent information publicly available. See MPEP § 1730.< Inquiries as to the status of applications, by persons entitled to the information, should be answered promptly. Simple letters of inquiry regarding the status of applications will be transmitted from the Office of Initial Patent Examination* to the TCs for direct action. Such letters will be stamped "Status Letters."

If the correspondent is not entitled to the information, in view of 37 CFR 1.14, he or she should be so informed. For Congressional and other official inquiries, see MPEP § 203.08(a).

Telephone inquiries regarding the status of applications, by persons entitled to the information, should be directed to the TC technical support personnel and not to the examiners **>, since< the technical support personnel can readily provide status information without contacting the examiners.

See also MPEP § 102 regarding status information.

Processing Status Letters by the TCs

(A) All status letters sent to a TC will be delivered to a designated location (e.g., Customer Service Office) within the TC for action. Status requests with respect to PCT applications are to be processed by the PCT Legal Division and should be forwarded to that office for reply. Status information regarding an application identified in a published patent document should be forwarded to the File Information Unit for reply. See MPEP § 102.

(B) A designated representative of the TC will review the status letter to determine the nature of the request and whether the requester is entitled to receive the requested information. PALM Intranet should be used to determine whether the requester is entitled to the information. If after reviewing the information in PALM it is not clear whether the requester is entitled to receive the information requested, the TC representative should review the application file to resolve the issue.

(C) The TC representative will determine the appropriate reply to the status letter by

(1) using PALM Intranet to determine the status of the application,

(2) reviewing the new application dates within the TC,

(3) reviewing any tracking system for the particular item or action at issue,

(4) discussing the matter with the supervisory patent examiner or the examiner in charge of the application, or

(5) when necessary, reviewing the application file.

The TC representative should discuss the matter with an appropriate resource person in the TC if it is not clear what the reply should be.